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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re RIFOCS Corporation

Serial No. 76/128,435

Matthew P. Lynch, Esq. for RIFOCS Corporation.

Angela M. Micheli, Trademark Examining Attorney, Law
Office 108 (David E. Shallant, Managing Attorney).

Before Simms, Walters and Holtzman, Administrative
Trademark Judges.

Opinion by Walters, Administrative Trademark Judge:

RIFOCS Corporation has filed an application to
register on the Principal Register the mark FIBERTOOLS
for "fiber optic test equipment, namely, power meters;
light sources, namely, light emitting diodes and lasers
not for medical use, attenuators, and accessories

therefor, namely, adapters."¹ The Trademark Examining Attorney has issued a final refusal to register, under Section 2(e)(1) of the Trademark Act, 15 U.S.C. 1052(e)(1), on the ground that applicant's mark is merely descriptive in connection with its goods.

Applicant has appealed. Both applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested. We affirm the refusal to register.

The Examining Attorney submitted the following definitions from the *Academic Press Dictionary of Science and Technology* (Harcourt, Inc.):

Fiber - *Materials*. A thin, threadlike piece of any material. *Optics*. A fiber made of transparent material, such as glass, fused silica, or plastic, that is capable of conducting light signals by means of total internal reflection.

Tool - *Mechanical Devices*. A portable and usually hand-held instrument, either unpowered or powered, that is used to increase the efficiency of a work effort.

She also submitted several excerpts of articles retrieved from the LEXIS/NEXIS database and excerpts from Internet Web sites. Following are several examples:

Leviton's ... new Universal Fiber Optic Tool Kit for multi or single mode is a collection of

¹ Serial No. 76/128,435, in International Class 9, filed September 15, 2000, based on use of the mark in commerce, alleging first use and use in commerce as of December 1, 1997.

fiber tools for fiber-optic connectors.
[*Teleconnect*, August 1, 1999.]

Fiberoptic splice kit (NSK-12), combines a complete fiber tool kit with Norland optical splices and Fiber Visualizer. [*Electric Power & Light*, June 1990.]

HEADLINE: Proteon offers fiber tools,...
[*Network World*, October 3, 1998.]

One Internet web site excerpt from HomeTech Solutions at www.hometech.com, November 29, 2001, contains a table of contents section entitled "Fiber Optic Installation Tools." The two sub-headings are "Fiber Tool Kits" and "Individual Fiber Tools."

The Examining Attorney contends that the evidence establishes that both the individual terms, "fiber" and "tools," and the compound formed from them, "fiber tools," are descriptive in connection with applicant's goods; and that the compound term FIBERTOOLS is not a deviation or unusual combination of the individual terms resulting in a different connotation or commercial impression from the individual terms.

Applicant contends that FIBERTOOLS is at most suggestive because "fiber" may as readily refer to textile fibers as to fiber optics; that "tool" could "refer to a large number of different types of products," only one of which is fiber optic equipment; that the use

by manufacturers of the term "fiber tool(s)" is "occasional," "rather infrequent," and "rather limited."

The test for determining whether a mark is merely descriptive is whether it immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of the product or service in connection with which it is used, or intended to be used. *In re Engineering Systems Corp.*, 2 USPQ2d 1075 (TTAB 1986); *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979). It is not necessary, in order to find that a mark is merely descriptive, that the mark describe each feature of the goods or services, only that it describe a single, significant quality, feature, etc. *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985). Further, it is well-established that the determination of mere descriptiveness must be made not in the abstract or on the basis of guesswork, but in relation to the goods or services for which registration is sought, the context in which the mark is used, and the impact that it is likely to make on the average purchaser of such goods or services. *In re Recovery*, 196 USPQ 830 (TTAB 1977).

Applicant acknowledges that there is some use of the term "fiber tools" in the fiber optic industry.

Regardless of whether the term FIBERTOOLS is commonly

used for the identified goods, it simply eliminates the understood term "optics," i.e., "fiber optics tools." It is well established that a mark need not be a common compound word to convey the good's characteristics. See, e.g., *In re Abcor Dev. Corp.*, 588 F.2d 811, 200 USPQ 215 (C.C.P.A. 1978) [affirming the Board's finding that "GASBADGE" is merely descriptive of a badge which detects gaseous pollutants even though the common compound word would be "gas monitoring badge"].

Applicant's principal, if not only, argument in support of its position that FIBERTOOLS is suggestive, is the fact that "fiber" and "tool," considered out of context, could refer to a number of different things. However, as stated above, such an argument is not valid. On the other hand, the Examining Attorney has provided clear evidence that not only are the individual terms "fiber" and "tools" merely descriptive in connection with the identified goods, but the compound term "fiber tools" is also merely descriptive thereof. The merging of the two words into FIBERTOOLS does not change the appearance or connotation of the terms, either individually or as a compound term."

When applied to applicant's goods, the term FIBERTOOLS immediately describes, without conjecture or

speculation, a significant feature or function of applicant's goods, namely, that applicant's goods include fiber optic equipment and tools to use on or in connection with fiber optic equipment. Nothing requires the exercise of imagination, cogitation, mental processing or gathering of further information in order for purchasers of and prospective customers for applicant's goods to readily perceive the merely descriptive significance of the term FIBERTOOLS as it pertains to applicant's goods.

Decision: The refusal under Section 2(e)(1) of the Act is affirmed.